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May 19, 2008

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Honorable Judge William Alsup  
United States District Court –  
Northern District of California  
450 Golden Gate Avenue  
San Francisco, CA 94102

**Re: David E. Randall v. Roto-Rooter Services Company**  
**U.S. District Court Case No. CV 08 0354 WHA**

Dear Judge Alsup:

At the suggestion of the Court's clerk, we are submitting this letter as an initial step to raise a specific concern over the Case Management Order the Court issued on May 1, 2008 in the above referenced case. Pursuant to that Order, this matter is set for a Jury Trial on April 20, 2009. Defendant has no objection to the date of the trial, but does object to its designation as a Jury Trial.

As stated in our Joint Case Management Statement filed with this Court on April 24, 2008, Defendant has not requested a jury trial and asserts that under FRCP 81(c), Plaintiff has waived his right to a jury trial. This matter was removed from state court and Plaintiff's last day to request a jury trial under FRCP 39 was February 4, 2008. Plaintiff made no such request, as the case file will confirm. Defendant, therefore, requests that the Order be revised to eliminate the direction of a Jury Trial and that this matter instead be set for a Bench Trial on April 20, 2009.

If this proposed correction of the Court's order requires additional steps, we would appreciate receiving that response from your chambers. We appreciate your consideration.

Very truly yours,

*Kristen L. Williams*  
Kristen L. Williams

KLW/ap  
Enclosure

cc: Michael E. Adams (Via E-File)